

systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

“(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.”

LIMITATIONS ON MAJOR SYSTEM PROCUREMENT,
ACQUISITION, AND DEVELOPMENT

Pub. L. 108-177, title III, §312(d), Dec. 13, 2003, 117 Stat. 2609, provided that:

“(1)(A) For each major system for which funds have been authorized for a fiscal year before fiscal year 2005, or for which funds are sought in the budget of the President for fiscal year 2005, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and for which no independent cost estimate has been provided to Congress, no contract, or option to contract, for the procurement or acquisition of such major system may be entered into, or option to contract be exercised, before the date of the enactment of an Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government.

“(B) Subparagraph (A) shall not affect any contract for procurement or acquisition that was entered into before the date of the enactment of this Act [Dec. 13, 2003].

“(2) Commencing as of the date of the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, no funds may be obligated or expended for the development or procurement of a major system until the President has complied with the requirements of section 506A of the National Security Act of 1947 (as added by subsection (b)) [50 U.S.C. 3097] with respect to such major system.

“(3) In this subsection, the terms ‘independent cost estimate’ and ‘major system’ have the meaning given such terms in subsection (e) of section 506A of the National Security Act of 1947 (as so added) [50 U.S.C. 3097(e)].”

§ 3098. Annual personnel level assessments for the intelligence community

(a) Requirement to provide

The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for such element for the fiscal year following the fiscal year in which the assessment is submitted.

(b) Schedule

Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31.

(c) Contents

Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

(1) The budget submission for personnel costs for the upcoming fiscal year.

(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

(7) The best estimate of the number and costs of core contract personnel to be funded by the element for the upcoming fiscal year.

(8) The numerical and percentage increase or decrease of such costs of core contract personnel as compared to the best estimate of the costs of core contract personnel of the current fiscal year.

(9) The numerical and percentage increase or decrease of such number and such costs of core contract personnel as compared to the number and cost of core contract personnel during the prior 5 fiscal years.

(10) A justification for the requested personnel and core contract personnel levels.

(11) The best estimate of the number of intelligence collectors and analysts employed by each element of the intelligence community.

(12) The best estimate of the number of intelligence collectors and analysts contracted by each element of the intelligence community and a description of the functions performed by such contractors.

(13) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

(A) internal infrastructure to support the requested personnel and core contract personnel levels;

(B) training resources to support the requested personnel levels; and

(C) funding to support the administrative and operational activities of the requested personnel levels.

(July 26, 1947, ch. 343, title V, §506B, as added Pub. L. 111-259, title III, §305(a), Oct. 7, 2010, 124 Stat. 2659; amended Pub. L. 113-293, title III, §327, Dec. 19, 2014, 128 Stat. 4006.)

CODIFICATION

Section was formerly classified to section 415a-4 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (c)(11). Pub. L. 113-293, §327(1), struck out “or contracted” after “employed”.

Subsec. (c)(12), (13). Pub. L. 113-293, §327(2), (3), added par. (12) and redesignated former par. (12) as (13).

IMPLEMENTATION

Pub. L. 111-259, title III, §305(b), Oct. 7, 2010, 124 Stat. 2661, provided that: “The first assessment required to

be submitted under section 506B(b) of the National Security Act of 1947 [50 U.S.C. 3098(b)], as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.”

[For definition of “congressional intelligence committees” as used in section 305(b) of Pub. L. 111-259, set out above, see section 2 of Pub. L. 111-259, set out as a note under section 3003 of this title.]

§ 3099. Vulnerability assessments of major systems

(a) Initial vulnerability assessments

(1)(A) Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply—

(i) except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system; or

(ii) prior to the date that is 1 year after October 7, 2010, in the case of a major system for which Milestone B or an equivalent acquisition decision—

(I) was completed prior to such date; or

(II) is completed on a date during the 180-day period following such date.

(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

- (i) identify vulnerabilities;
- (ii) define exploitation potential;
- (iii) examine the system’s potential effectiveness;
- (iv) determine overall vulnerability; and
- (v) make recommendations for risk reduction.

(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

(b) Subsequent vulnerability assessments

(1) The Director of National Intelligence shall, periodically throughout the procurement of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment

of each major system and its significant items of supply within the National Intelligence Program.

(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may, if appropriate, recertify the previous vulnerability assessment or may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in clauses (i) through (v) of subsection (a)(1)(C).

(c) Major system management

The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

(d) Congressional oversight

(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

(e) Definitions

In this section:

(1) The term “item of supply” has the meaning given that term in section 4(10)¹ of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

(2) The term “major contract” means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

(3) The term “major system” has the meaning given that term in section 3097(e) of this title.

(4) The term “Milestone B” means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

(5) The term “vulnerability assessment” means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.

(July 26, 1947, ch. 343, title V, §506C, as added Pub. L. 111-259, title III, §321(a)(1), Oct. 7, 2010, 124 Stat. 2667.)

REFERENCES IN TEXT

Section 4(10) of the Office of Federal Procurement Policy Act, referred to in subsec. (e)(1), which was clas-

¹ See References in Text note below.